

Before the  
Federal Communications Commission  
Washington, DC 20554

DEC 16 5 24 PM '04

In the Matter of )

DISPATCH

Request for Review )

Terrebonne Parish School District  
Houma, Louisiana )

File No. SLD-285311

Schools and Libraries Universal Service  
Support Mechanism )

CC Docket No. 02-6

**ORDER****Adopted: December 15, 2004****Released: December 15, 2004**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Terrebonne Parish School District, Houma, Louisiana (Terrebonne).<sup>1</sup> Terrebonne seeks review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) denying Terrebonne's Funding Year 2002 application for discounted services under the schools and libraries universal service mechanism on the grounds that Terrebonne violated the Commission's competitive bidding requirements.<sup>2</sup> For the reasons set forth below, we deny Terrebonne's Request for Review and direct SLD to adjust Terrebonne's Funding Year 1999, 2000, and 2001 commitments.

2. On December 26, 2001, Terrebonne submitted its Funding Year 2002 FCC Form 471 application requesting discounts on a five-year service contract awarded on July 15, 1998.<sup>3</sup> Terrebonne identified FCC Form 470 #6510010000260287 as the establishing Form 470.<sup>4</sup> SLD denied Terrebonne's funding request, finding that the competitive bidding rules had been violated.<sup>5</sup> Specifically, SLD determined that Terrebonne's contract was signed before the expiration of the 28-day waiting period.<sup>6</sup>

<sup>1</sup> Letter from Shirley Bilello, Terrebonne Parish School Board, to Federal Communications Commission, filed August 6, 2002 (Request for Review). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company may seek review from the Commission. 47 C.F.R. 54.719(c).

<sup>2</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Grace Whitfield, Terrebonne Parish School District, dated July 8, 2002 (Administrative Decision on Appeal).

<sup>3</sup> FCC Form 471, Terrebonne Parish School District, filed December 26, 2001 (Terrebonne Form 471).

<sup>4</sup> *Id.*

<sup>5</sup> See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Grace Whitfield, Terrebonne Parish School District, dated April 24, 2002 (Funding Commitment Decision Letter).

<sup>6</sup> *Id.* See also 47 C.F.R. § 54.504(b)(4).

3. On May 1, 2002, Terrebonne appealed this decision to SLD and stated that it referenced the wrong Form 470 on its Form 471 application.<sup>7</sup> Terrebonne then provided SLD with the correct establishing Form 470, #352840000116488.<sup>8</sup> Because Terrebonne checked Item 10, Block 3 of this Form, indicating that its funding request was based on an existing contract, SLD did not post this Form to SLD's website.<sup>9</sup> On July 8, 2002, SLD found that the correct Form 470 did not meet the 28-day posting requirement.<sup>10</sup> Accordingly, SLD denied Terrebonne's appeal.<sup>11</sup> In response, Terrebonne filed the instant Request for Review and argues that the correct Form 470 was not required to be posted for bidding and that the 28-day waiting period did not apply.<sup>12</sup>

4. The Commission has found that applicants signing service contracts after January 30, 1998 are not exempt from competitive bidding requirements.<sup>13</sup> These rules require an applicant to file with SLD, for posting to its website, a Form 470 requesting services.<sup>14</sup> The applicant must wait 28 days before entering into an agreement with a service provider for the requested services and submitting a Form 471 requesting support for the services ordered by the applicant.<sup>15</sup> Once an applicant submits a Form 470 and complies with the 28-day posting period, the applicant may enter into a long-term agreement at that time and, having complied with the competitive bidding requirement prior to entering into the service agreement, need not submit any additional Form 470s for the duration of that contract.<sup>16</sup>

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<sup>7</sup> Letter from Grace Whitfield, Terrebonne Parish School District, to Federal Communications Commission, filed May 1, 2002.

<sup>8</sup> FCC Form 470, Terrebonne Parish School District, certified December 14, 1998 (Form 470 # 352840000116488).

<sup>9</sup> *Id.* See also Funding Commitment Decision Letter.

<sup>10</sup> See Administrative Decision on Appeal.

<sup>11</sup> *Id.*

<sup>12</sup> Request for Review at 3.

<sup>13</sup> 47 C.F.R. § 54.511(c)(1). See *Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, and 95-72, Fourth Order on Reconsideration in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, 13 FCC Rcd 5318 (1997); *Federal-State Joint Board on Universal Service*, Docket No. 96-45, Fifth Order on Reconsideration and Fourth Report and Order, 13 FCC Rcd 14915, at paras. 217-221 (1998) (finding that contracts signed after July 10, 1997, and before January 30, 1998, the date on which the Schools and Libraries website was fully operational, would be eligible for support and exempt from the competitive bidding rules for services provided through June 30, 1999, the end of Funding Year 1998, regardless of the duration of the contract as a whole); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Tenth Order on Reconsideration, 14 FCC Rcd 5983 (1999); 47 C.F.R. § 54.511(d)(1).

<sup>14</sup> 47 C.F.R. § 54.504(b). See also Instructions for Completing the Schools and Libraries Universal Service Description of Services Requested and Certification Form (FCC Form 470), OMB 3060-0806 (September 1999) (Form 470 Instructions) at 2-3.

<sup>15</sup> See, e.g., *Request for Waiver by Roanoke Rapids Graded School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File Nos. SLD-222879, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 23514 (Wireline Comp. Bur. 2002).

<sup>16</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 15 FCC Rcd 6732 (1999) ("We conclude that permitting a school or library to commit to a long-term contract after participating in the competitive

5. In the instant case, Terrebonne signed a five-year service contract on July 18, 1998. As a result, Terrebonne's funding request was not exempt from the Commission's competitive bidding requirements and Terrebonne was required to post its service contract for bidding. Because the underlying contract was never posted for bidding, we agree with SLD's determination that Terrebonne's Funding Year 2002 request did not comply with program rules. Consequently, we deny Terrebonne's Request for Review.

6. Our review of the record reveals that Terrebonne also failed to follow the competitive bidding process for services in Funding Years 1999, 2000, and 2001, in violation of the Commission's rules.<sup>17</sup> Terrebonne states that it was nevertheless awarded funds for this service since Funding Year 1999.<sup>18</sup> We therefore direct SLD to initiate commitment adjustment procedures in connection with the appropriate funding year service requests.<sup>19</sup>

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Terrebonne Parish School District, on August 6, 2002, IS DENIED.

8. IT IS FURTHER ORDERED that SLD pursue funding commitment adjustments in accordance with the terms of this Order and the established commitment adjustment procedures.

## FEDERAL COMMUNICATIONS COMMISSION



Vickie S. Robinson  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau

bidding process does not compromise the benefits derived from competition. As long as all providers have had the opportunity to compete for the same contract, schools or libraries can enter into renewable contracts of any length or form, as permitted by state law.").

<sup>17</sup> Terrebonne states that it submitted Form 471 applications requesting discounts on the original contract and cited Funding Year 1999 Form 470 #352840000116488 as support. See Letter from Grace Whitfield, Terrebonne Parish School District, to Federal Communications Commission, filed May 1, 2002; Request for Review at 3.

<sup>18</sup> Letter from Grace Whitfield, Terrebonne Parish School District, to Federal Communications Commission, filed May 1, 2002.

<sup>19</sup> The Commission has adopted procedures to adjust and recover commitments of discount funding that were made to schools and libraries in violation of federal statute. See *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45 and 97-21, Order, FCC 99-291, (rel. October 8, 1999); *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, 15 FCC Rcd 22975 (2000) (adopting adjustment procedures). See also <http://www.sl.universalservice.org/reference/comad.asp>.